IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6491 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

HATKESH CO-OP HOUSING SOCIETY LTD.

Versus

RESERVE BANK OF INDIA

Appearance:

MR JITENDRA M PATEL for Petitioner

MR HV CHHATRAPATI for Respondent No. 1

None present for Respondent No. 2 & 3

MS MANISHA LAVKUMAR for Respondent No. 4

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 06/07/2000

ORAL JUDGEMENT

#. Mr.Chhatrapati, learned counsel for respondent No.1 raised a preliminary objection regarding maintainability of this writ petition against respondent No.1 as well as

he further contended that in this case, remedy of suit is appropriate remedy for petitioner and this writ petition is wholly misconceived. The learned counsel for respondent No.1 also placed reliance on the decision of this court given in Special Civil Application No.2615 of 1997 decided on 15.2.99 (Coram: R.Balia, J.).

#. Having heard the learned counsel for the parties, I am satisfied that Reserve Bank of India is not necessary or proper party to this special civil application. If we go by prayer made by petitioner in the special civil application, no relief has been claimed against Reserve Bank of India. Prayer made under clause (a) of para-20 of the special civil application though has been referred by learned counsel for the petitioner, but therefrom also, it is difficult to accept that any relief is claimed against the Reserve Bank of India. It is a case where unnecessarily, Reserve Bank of India has been impleaded as party to this special civil application. Otherwise also, it is a case where this writ petition is wholly misconceived. The petitioner is a registered cooperative housing society. The petitioner has deposited by way of fixed deposit, Rs.40 lacs with respondent No.2 Ahmedabad Urban Cooperative Bank Ltd. It is the case of petitioner that the said fixed deposit has already matured. On maturity of these F.D.Rs, the petitioner requested respondent No.2 to encash their deposits as it was in need of money. It was followed by another letter dated 31st July 1997. On 21st March 1998, a letter has been written to the Administrator of the Bank. On 4.5.98, a notice has also been served to the Registrar, Cooperative Societies. It is the case of petitioner that on 18th July 1998, in the news item of daily newspaper "Mumbai Samachar", it came to know that the respondent No.2 Bank is not able to repay the deposits of various depositors. Hence this special civil application. So it is a case where the petitioner is praying for direction to respondent No.2 for payment of the amount of F.D.R.s. For this, this writ petition is not a remedy. It is a pure and simple civil money dispute and for recovery of the amount of F.D.R.s the petitioner has to file a Lavad suit and not this writ petition. As the petitioner has the remedy of suit as it is not a case where any of the legal or fundamental rights of the petitioner are being infringed. In the civil money disputes, writ petition under Article 226 of the Constitution of India is wholly ill advised. In the result, this special civil application is dismissed. Rule discharged. No order as to costs. This writ petition is dismissed only on the ground that the petitioner has to file the suit for this grievance and

not on merits.

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(sunil)